

# HOUSE . . . . . No. 1515

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By Mr. Keenan of Southwick, petition of Daniel F. Keenan relative to the interstate insurance compact. Financial Services.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand and Five.

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AN ACT RELATIVE TO THE INTERSTATE INSURANCE COMPACT.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 The General Laws is hereby amended by inserting after  
2 chapter 175J, as appearing in the 2002 Official Edition, the  
3 following chapter:—

4 **Chapter 175K.**  
5 **Interstate Insurance Compact**

6 Section 1. Definitions

7 For purposes of this Compact:

8 “Advertisement” means any material designed to create public  
9 interest in a Product, or induce the public to purchase, increase,  
10 modify, reinstate, borrow on, surrender, replace or retain a policy,  
11 as more specifically defined in the Rules and Operating Proce-  
12 dures of the Commission.

13 “Bylaws” mean those bylaws established by the Commission  
14 for its governance, or for directing or controlling the Commis-  
15 sion’s actions or conduct.

16 “Compacting State” means any State which has enacted this  
17 Compact legislation and which has not withdrawn pursuant to  
18 Section 13, subsection 1, or been terminated pursuant to  
19 Section 13, subsection 2.

20 “Commission” means the “Interstate Insurance Product Regula-  
21 tion Commission” established by this Compact.

22 “Commissioner” means the chief insurance regulatory official  
23 of a State including, but not limited to commissioner, superinten-  
24 dent, director or administrator.

25 “Domiciliary State” means the state in which an Insurer is  
26 incorporated or organized; or, in the case of an alien Insurer, its  
27 state of entry.

28 “Insurer” means any entity licensed by a State to issue contracts  
29 of insurance for any of the lines of insurance covered by this Act.

30 “Member” means the person chosen by a Compacting State as  
31 its representative to the Commission, or his or her designee.

32 “Non-compacting State” means any State which is not at the  
33 time a Compacting State.

34 “Operating Procedures” mean procedures promulgated by the  
35 Commission implementing a Rule, Uniform Standard or a provi-  
36 sion of this Compact.

37 “Product” means the form of a policy or contract, including any  
38 application, endorsement, or related form which is attached to and  
39 made a part of the policy or contract, and any evidence of cov-  
40 erage or certificate, for an individual or group annuity, life insur-  
41 ance, disability income or long-term care insurance product that  
42 an Insurer is authorized to issue.

43 “Rule” means a statement of general or particular applicability  
44 and future effect promulgated by the Commission, including a  
45 Uniform Standard developed pursuant to Section 6 of this Com-  
46 pact, designed to implement, interpret, or prescribe law or policy  
47 or describing the organization, procedure, or practice requirements  
48 of the Commission, which shall have the force and effect of law in  
49 the Compacting States.

50 “State” means any state, district or territory of the United States  
51 of America.

52 “Third-Party Filer” means an entity that submits a Product  
53 filing to the Commission on behalf of an Insurer.

54 “Uniform Standard” means a standard adopted by the Commis-  
55 sion for a Product line, pursuant to Section 6 of this Compact, and  
56 shall include all of the Product requirements in aggregate; pro-  
57 vided, that each Uniform Standard shall be construed, whether  
58 express or implied, to prohibit the use of any inconsistent, mis-  
59 leading or ambiguous provisions in a Product and the form of the  
60 Product made available to the public shall not be unfair,  
61 inequitable or against public policy as determined by the Commis-  
62 sion.

63     Section 2. Establishment of the Commission and Venue

64     1. The Compacting States hereby create and establish a joint  
65 public agency known as the “Interstate Insurance Product Regula-  
66 tion Commission.” Pursuant to Section 3, the Commission will  
67 have the power to develop Uniform Standards for Product lines,  
68 receive and provide prompt review of Products filed therewith,  
69 and give approval to those Product filings satisfying applicable  
70 Uniform Standards; provided, it is not intended for the Commis-  
71 sion to be the exclusive entity for receipt and review of insurance  
72 product filings. Nothing herein shall prohibit any Insurer from  
73 filing its product in any State wherein the Insurer is licensed to  
74 conduct the business of insurance; and any such filing shall be  
75 subject to the laws of the State where filed.

76     2. The Commission is a body corporate and politic, and an  
77 instrumentality of the Compacting States.

78     3. The Commission is solely responsible for its liabilities  
79 except as otherwise specifically provided in this Compact.

80     4. Venue is proper and judicial proceedings by or against the  
81 Commission shall be brought solely and exclusively in a Court of  
82 competent jurisdiction where the principal office of the Commis-  
83 sion is located.

84     Section 3. Powers of the Commission

85     The Commission shall have the following powers:

86     1. To promulgate Rules, pursuant to Section 6 of this Compact,  
87 which shall have the force and effect of law and shall be binding  
88 in the Compacting States to the extent and in the manner provided  
89 in this Compact;

90     2. To exercise its rule-making authority and establish reason-  
91 able Uniform Standards for Products covered under the Compact,  
92 and Advertisement related thereto, which shall have the force and  
93 effect of law and shall be binding in the Compacting States, but  
94 only for those Products filed with the Commission, provided, that  
95 a Compacting State shall have the right to opt out of such Uniform  
96 Standard pursuant to Section 6, to the extent and in the manner  
97 provided in this Compact, and, provided further, that any Uniform  
98 Standard established by the Commission for long-term care insur-  
99 ance products may provide the same or greater protections for  
100 consumers as, but shall not provide less than, those protections set  
101 forth in the National Association of Insurance Commissioners’  
102 Long-Term Care Insurance Model Act and Long-Term Care Insur-

103 ance Model Regulation, respectively, adopted as of 2001. The  
104 Commission shall consider whether any subsequent amendments  
105 to the NAIC Long-Term Care Insurance Model Act or Long-Term  
106 Care Insurance Model Regulation adopted by the NAIC require  
107 amending of the Uniform Standards established by the Commis-  
108 sion for long-term care insurance products;

109 3. To receive and review in an expeditious manner Products  
110 filed with the Commission, and rate filings for disability income  
111 and long-term care insurance Products, and give approval of those  
112 Products and rate filings that satisfy the applicable Uniform Stan-  
113 dard, where such approval shall have the force and effect of law  
114 and be binding on the Compacting States to the extent and in the  
115 manner provided in the Compact;

116 4. To receive and review in an expeditious manner Advertise-  
117 ment relating to long-term care insurance products for which Uni-  
118 form Standards have been adopted by the Commission, and give  
119 approval to all Advertisement that satisfies the applicable Uniform  
120 Standard. For any product covered under this Compact, other than  
121 long-term care insurance products, the Commission shall have the  
122 authority to require an insurer to submit all or any part of its  
123 Advertisement with respect to that product for review or approval  
124 prior to use, if the Commission determines that the nature of the  
125 product is such that an Advertisement of the product could have  
126 the capacity or tendency to mislead the public. The actions of  
127 Commission as provided in this subsection shall have the force  
128 and effect of law and shall be binding in the Compacting States to  
129 the extent and in the manner provided in the Compact;

130 5. To exercise its rule-making authority and designate Products  
131 and Advertisement that may be subject to a self-certification  
132 process without the need for prior approval by the Commission;

133 6. To promulgate Operating Procedures, pursuant to Section 6  
134 of this Compact, which shall be binding in the Compacting States  
135 to the extent and in the manner provided in this Compact;

136 7. To bring and prosecute legal proceedings or actions in its  
137 name as the Commission; provided, that the standing of any state  
138 insurance department to sue or be sued under applicable law shall  
139 not be affected;

140 8. To issue subpoenas requiring the attendance and testimony of  
141 witnesses and the production of evidence;

142 9. To establish and maintain offices;

- 143 10. To purchase and maintain insurance and bonds;
- 144 11. To borrow, accept or contract for services of personnel,  
145 including, but not limited to, employees of a Compacting State;
- 146 12. To hire employees, professionals or specialists, and elect or  
147 appoint officers, and to fix their compensation, define their duties  
148 and give them appropriate authority to carry out the purposes of  
149 the Compact, and determine their qualifications; and to establish  
150 the Commission's personnel policies and programs relating to,  
151 among other things, conflicts of interest, rates of compensation  
152 and qualifications of personnel;
- 153 13. To accept any and all appropriate donations and grants of  
154 money, equipment, supplies, materials and services, and to  
155 receive, utilize and dispose of the same; provided that at all times  
156 the Commission shall strive to avoid any appearance of impro-  
157 priety;
- 158 14. To lease, purchase, accept appropriate gifts or donations of,  
159 or otherwise to own, hold, improve or use, any property, real, per-  
160 sonal or mixed; provided that at all times the Commission shall  
161 strive to avoid any appearance of impropriety;
- 162 15. To sell, convey, mortgage, pledge, lease, exchange, abandon  
163 or otherwise dispose of any property, real, personal or mixed;
- 164 16. To remit filing fees to Compacting States as may be set  
165 forth in the Bylaws, Rules or Operating Procedures;
- 166 17. To enforce compliance by Compacting States with Rules,  
167 Uniform Standards, Operating Procedures and Bylaws;
- 168 18. To provide for dispute resolution among Compacting  
169 States;
- 170 19. To advise Compacting States on issues relating to Insurers  
171 domiciled or doing business in Non-compacting jurisdictions,  
172 consistent with the purposes of this Compact;
- 173 20. To provide advice and training to those personnel in state  
174 insurance departments responsible for product review, and to be a  
175 resource for state insurance departments;
- 176 21. To establish a budget and make expenditures;
- 177 22. To borrow money;
- 178 23. To appoint committees, including advisory committees  
179 comprising Members, state insurance regulators, state legislators  
180 or their representatives, insurance industry and consumer repre-  
181 sentatives, and such other interested persons as may be designated  
182 in the Bylaws;

183 24. To provide and receive information from, and to cooperate  
184 with law enforcement agencies;

185 25. To adopt and use a corporate seal; and

186 26. To perform such other functions as may be necessary or  
187 appropriate to achieve the purposes of this Compact consistent  
188 with the state regulation of the business of insurance.

189 Section 4. Organization of the Commission

190 1. Membership, Voting and Bylaws

191 a. Each Compacting State shall have and be limited to one  
192 Member. Each Member shall be qualified to serve in that capacity  
193 pursuant to applicable law of the Compacting State. Any Member  
194 may be removed or suspended from office as provided by the law  
195 of the State from which he or she shall be appointed. Any vacancy  
196 occurring in the Commission shall be filled in accordance with the  
197 laws of the Compacting State wherein the vacancy exists. Nothing  
198 herein shall be construed to affect the manner in which a Com-  
199 pacting State determines the election or appointment and qualifi-  
200 cation of its own Commissioner.

201 b. Each Member shall be entitled to one vote and shall have an  
202 opportunity to participate in the governance of the Commission in  
203 accordance with the Bylaws. Notwithstanding any provision  
204 herein to the contrary, no action of the Commission with respect  
205 to the promulgation of a Uniform Standard shall be effective  
206 unless two-thirds (2/3) of the Members vote in favor thereof.

207 c. The Commission shall, by a majority of the Members, pre-  
208 scribe Bylaws to govern its conduct as may be necessary or appro-  
209 priate to carry out the purposes, and exercise the powers, of the  
210 Compact, including, but not limited to:

211 i. Establishing the fiscal year of the Commission;

212 ii. Providing reasonable procedures for appointing and electing  
213 members, as well as holding meetings, of the Management Com-  
214 mittee;

215 iii. Providing reasonable standards and procedures: (i) for the  
216 establishment and meetings of other committees, and (ii) gov-  
217 erning any general or specific delegation of any authority or func-  
218 tion of the Commission;

219 iv. Providing reasonable procedures for calling and conducting  
220 meetings of the Commission that consists of a majority of Com-  
221 mission members, ensuring reasonable advance notice of each  
222 such meeting and providing for the right of citizens to attend each

223 such meeting with enumerated exceptions designed to protect the  
224 public's interest, the privacy of individuals, and insurers' propri-  
225 etary information, including trade secrets. The Commission may  
226 meet in camera only after a majority of the entire membership  
227 votes to close a meeting en toto or in part. As soon as practicable,  
228 the Commission must make public (i) a copy of the vote to close  
229 the meeting revealing the vote of each Member with no proxy  
230 votes allowed, and (ii) votes taken during such meeting;

231 v. Establishing the titles, duties and authority and reasonable  
232 procedures for the election of the officers of the Commission;

233 vi. Providing reasonable standards and procedures for the  
234 establishment of the personnel policies and programs of the Com-  
235 mission. Notwithstanding any civil service or other similar laws of  
236 any Compacting State, the Bylaws shall exclusively govern the  
237 personnel policies and programs of the Commission;

238 vii. Promulgating a code of ethics to address permissible and  
239 prohibited activities of commission members and employees; and

240 viii. Providing a mechanism for winding up the operations of  
241 the Commission and the equitable disposition of any surplus funds  
242 that may exist after the termination of the Compact after the pay-  
243 ment and/or reserving of all of its debts and obligations.

244 d. The Commission shall publish its bylaws in a convenient  
245 form and file a copy thereof and a copy of any amendment  
246 thereto, with the appropriate agency or officer in each of the Com-  
247 pacting States.

248 2. Management Committee, Officers and Personnel

249 a. A Management Committee comprising no more than fourteen  
250 (14) members shall be established as follows:

251 i. One (1) member from each of the six (6) Compacting States  
252 with the largest premium volume for individual and group annu-  
253 ities, life, disability income and long-term care insurance prod-  
254 ucts, determined from the records of the NAIC for the prior year;

255 ii. Four (4) members from those Compacting States with at  
256 least two percent (2%) of the market based on the premium  
257 volume described above, other than the six (6) Compacting States  
258 with the largest premium volume, selected on a rotating basis as  
259 provided in the Bylaws; and

260 iii. Four (4) members from those Compacting States with less  
261 than two percent (2%) of the market, based on the premium

262 volume described above, with one (1) selected from each of the  
263 four (4) zone regions of the NAIC as provided in the Bylaws.

264 b. The Management Committee shall have such authority and  
265 duties as may be set forth in the Bylaws, including but not limited  
266 to:

267 i. Managing the affairs of the Commission in a manner consis-  
268 tent with the Bylaws and purposes of the Commission;

269 ii. Establishing and overseeing an organizational structure  
270 within, and appropriate procedures for, the Commission to provide  
271 for the creation of Uniform Standards and other Rules, receipt and  
272 review of product filings, administrative and technical support  
273 functions, review of decisions regarding the disapproval of a  
274 product filing, and the review of elections made by a Compacting  
275 State to opt out of a Uniform Standard; provided that a Uniform  
276 Standard shall not be submitted to the Compacting States for  
277 adoption unless approved by two-thirds (2/3) of the members of  
278 the Management Committee;

279 iii. Overseeing the offices of the Commission; and

280 iv. Planning, implementing, and coordinating communications  
281 and activities with other state, federal and local government orga-  
282 nizations in order to advance the goals of the Commission.

283 c. The Commission shall elect annually officers from the Man-  
284 agement Committee, with each having such authority and duties,  
285 as may be specified in the Bylaws.

286 d. The Management Committee may, subject to the approval of  
287 the Commission, appoint or retain an executive director for such  
288 period, upon such terms and conditions and for such compensa-  
289 tion as the Commission may deem appropriate. The executive  
290 director shall serve as secretary to the Commission, but shall not  
291 be a Member of the Commission. The executive director shall hire  
292 and supervise such other staff as may be authorized by the Com-  
293 mission.

294 3. Legislative and Advisory Committees

295 a. A legislative committee comprising state legislators or their  
296 designees shall be established to monitor the operations of, and  
297 make recommendations to, the Commission, including the Man-  
298 agement Committee; provided that the manner of selection and  
299 term of any legislative committee member shall be as set forth in  
300 the Bylaws. Prior to the adoption by the Commission of any Uni-



301 form Standard, revision to the Bylaws, annual budget or other sig-  
302 nificant matter as may be provided in the Bylaws, the Manage-  
303 ment Committee shall consult with and report to the legislative  
304 committee.

305 b. The Commission shall establish two (2) advisory commit-  
306 tees, one of which shall comprise consumer representatives inde-  
307 pendent of the insurance industry, and the other comprising  
308 insurance industry representatives.

309 c. The Commission may establish additional advisory commit-  
310 tees as its Bylaws may provide for the carrying out of its func-  
311 tions.

312 4. Corporate Records of the Commission

313 The Commission shall maintain its corporate books and records  
314 in accordance with the Bylaws.

315 5. Qualified Immunity, Defense and Indemnification

316 a. The Members, officers, executive director, employees and  
317 representatives of the Commission shall be immune from suit and  
318 liability, either personally or in their official capacity, for any  
319 claim for damage to or loss of property or personal injury or other  
320 civil liability caused by or arising out of any actual or alleged act,  
321 error or omission that occurred, or that the person against whom  
322 the claim is made had a reasonable basis for believing occurred  
323 within the scope of Commission employment, duties or responsi-  
324 bilities; provided, that nothing in this paragraph shall be construed  
325 to protect any such person from suit and/or liability for any  
326 damage, loss, injury or liability caused by the intentional or  
327 willful and wanton misconduct of that person.

328 b. The Commission shall defend any Member, officer, execu-  
329 tive director, employee or representative of the Commission in  
330 any civil action seeking to impose liability arising out of any  
331 actual or alleged act, error or omission that occurred within the  
332 scope of Commission employment, duties or responsibilities, or  
333 that the person against whom the claim is made had a reasonable  
334 basis for believing occurred within the scope of Commission  
335 employment, duties or responsibilities; provided, that nothing  
336 herein shall be construed to prohibit that person from retaining his  
337 or her own counsel; and provided further, that the actual or  
338 alleged act, error or omission did not result from that person's  
339 intentional or willful and wanton misconduct.

340 c. The Commission shall indemnify and hold harmless any  
341 Member, officer, executive director, employee or representative of  
342 the Commission for the amount of any settlement or judgment  
343 obtained against that person arising out of any actual or alleged  
344 act, error or omission that occurred within the scope of Commis-  
345 sion employment, duties or responsibilities, or that such person  
346 had a reasonable basis for believing occurred within the scope of  
347 Commission employment, duties or responsibilities, provided, that  
348 the actual or alleged act, error or omission did not result from the  
349 intentional or willful and wanton misconduct of that person

350 Section 5. Meetings and Acts of the Commission

351 1. The Commission shall meet and take such actions as are con-  
352 sistent with the provisions of this Compact and the Bylaws.

353 2. Each Member of the Commission shall have the right and  
354 power to cast a vote to which that Compacting State is entitled  
355 and to participate in the business and affairs of the Commission. A  
356 Member shall vote in person or by such other means as provided  
357 in the Bylaws. The Bylaws may provide for Members' participa-  
358 tion in meetings by telephone or other means of communication.

359 3. The Commission shall meet at least once during each cal-  
360 endar year. Additional meetings shall be held as set forth in the  
361 Bylaws.

362 Section 6. Rules and Operating Procedures: Rulemaking Func-  
363 tions of the Commission and Opting Out of Uniform Standards

364 1. Rulemaking Authority. The Commission shall promulgate  
365 reasonable Rules, including Uniform Standards, and Operating  
366 Procedures in order to effectively and efficiently achieve the pur-  
367 poses of this Compact. Notwithstanding the foregoing, in the  
368 event the Commission exercises its rulemaking authority in a  
369 manner that is beyond the scope of the purposes of this Act, or the  
370 powers granted hereunder, then such an action by the Commission  
371 shall be invalid and have no force and effect.

372 2. Rulemaking Procedure. Rules and Operating Procedures  
373 shall be made pursuant to a rulemaking process that conforms to  
374 the Model State Administrative Procedure Act of 1981 as  
375 amended, as may be appropriate to the operations of the Commis-  
376 sion. Before the Commission adopts a Uniform Standard, the  
377 Commission shall give written notice to the relevant state legisla-  
378 tive committee(s) in each Compacting State responsible for insur-

379 ance issues of its intention to adopt the Uniform Standard. The  
380 Commission in adopting a Uniform Standard shall consider fully  
381 all submitted materials and issue a concise explanation of its deci-  
382 sion.

383 3. Effective Date and Opt Out of a Uniform Standard. A Uni-  
384 form Standard shall become effective ninety (90) days after its  
385 promulgation by the Commission or such later date as the Com-  
386 mission may determine; provided, however, that a Compacting  
387 State may opt out of a Uniform Standard as provided in this  
388 Section. “Opt out” shall be defined as any action by a Compacting  
389 State to decline to adopt or participate in a promulgated Uniform  
390 Standard. All other Rules and Operating Procedures, and amend-  
391 ments thereto, shall become effective as of the date specified in  
392 each Rule, Operating Procedure or amendment.

393 4. Opt Out Procedure. A Compacting State may opt out of a  
394 Uniform Standard, either by legislation or regulation duly promul-  
395 gated by the Insurance Department under the Compacting State's  
396 Administrative Procedure Act. If a Compacting State elects to opt  
397 out of a Uniform Standard by regulation, it must (a) give written  
398 notice to the Commission no later than ten (10) business days  
399 after the Uniform Standard is promulgated, or at the time the State  
400 becomes a Compacting State and (b) find that the Uniform Stan-  
401 dard does not provide reasonable protections to the citizens of the  
402 State, given the conditions in the State. The Commissioner shall  
403 make specific findings of fact and conclusions of law, based on a  
404 preponderance of the evidence, detailing the conditions in the  
405 State which warrant a departure from the Uniform Standard and  
406 determining that the Uniform Standard would not reasonably pro-  
407 tect the citizens of the State. The Commissioner must consider and  
408 balance the following factors and find that the conditions in the  
409 State and needs of the citizens of the State outweigh: (i) the intent  
410 of the legislature to participate in, and the benefits of, an interstate  
411 agreement to establish national uniform consumer protections for  
412 the Products subject to this Act; and (ii) the presumption that a  
413 Uniform Standard adopted by the Commission provides reason-  
414 able protections to consumers of the relevant Product.

415 Notwithstanding the foregoing, a Compacting State may, at the  
416 time of its enactment of this Compact, prospectively opt out of all  
417 Uniform Standards involving long-term care insurance products

418 by expressly providing for such opt out in the enacted Compact,  
419 and such an opt out shall not be treated as a material variance in  
420 the offer or acceptance of any State to participate in this Compact.  
421 Such an opt out shall be effective at the time of enactment of this  
422 Compact by the Compacting State and shall apply to all existing  
423 Uniform Standards involving long-term care insurance products  
424 and those subsequently promulgated.

425 5. Effect of Opt Out. If a Compacting State elects to opt out of  
426 a Uniform Standard, the Uniform Standard shall remain applicable  
427 in the Compacting State electing to opt out until such time the opt  
428 out legislation is enacted into law or the regulation opting out  
429 becomes effective.

430 Once the opt out of a Uniform Standard by a Compacting State  
431 becomes effective as provided under the laws of that State, the  
432 Uniform Standard shall have no further force and effect in that  
433 State unless and until the legislation or regulation implementing  
434 the opt out is repealed or otherwise becomes ineffective under the  
435 laws of the State. If a Compacting State opts out of a Uniform  
436 Standard after the Uniform Standard has been made effective in  
437 that State, the opt out shall have the same prospective effect as  
438 provided under Section 13 for withdrawals.

439 6. Stay of Uniform Standard. If a Compacting State has for-  
440 mally initiated the process of opting out of a Uniform Standard by  
441 regulation, and while the regulatory opt out is pending, the Com-  
442 pacting State may petition the Commission, at least fifteen (15)  
443 days before the effective date of the Uniform Standard, to stay the  
444 effectiveness of the Uniform Standard in that State. The Commis-  
445 sion may grant a stay if it determines the regulatory opt out is  
446 being pursued in a reasonable manner and there is a likelihood of  
447 success. If a stay is granted or extended by the Commission, the  
448 stay or extension thereof may postpone the effective date by up to  
449 ninety (90) days, unless affirmatively extended by the Commis-  
450 sion; provided, a stay may not be permitted to remain in effect for  
451 more than one (1) year unless the Compacting State can show  
452 extraordinary circumstances which warrant a continuance of the  
453 stay, including, but not limited to, the existence of a legal chal-  
454 lenge which prevents the Compacting State from opting out. A  
455 stay may be terminated by the Commission upon notice that the  
456 rulemaking process has been terminated.

457 7. Not later than thirty (30) days after a Rule or Operating Pro-  
458 cedure is promulgated, any person may file a petition for judicial  
459 review of the Rule or Operating Procedure; provided, that the  
460 filing of such a petition shall not stay or otherwise prevent the  
461 Rule or Operating Procedure from becoming effective unless the  
462 court finds that the petitioner has a substantial likelihood of suc-  
463 cess. The court shall give deference to the actions of the Commis-  
464 sion consistent with applicable law and shall not find the Rule or  
465 Operating Procedure to be unlawful if the Rule or Operating Pro-  
466 cedure represents a reasonable exercise of the Commission's  
467 authority.

468 Section 7. Commission Records and Enforcement

469 1. The Commission shall promulgate Rules establishing condi-  
470 tions and procedures for public inspection and copying of its  
471 information and official records, except such information and  
472 records involving the privacy of individuals and insurers' trade  
473 secrets. The Commission may promulgate additional Rules under  
474 which it may make available to federal and state agencies,  
475 including law enforcement agencies, records and information oth-  
476 erwise exempt from disclosure, and may enter into agreements  
477 with such agencies to receive or exchange information or records  
478 subject to nondisclosure and confidentiality provisions.

479 2. Except as to privileged records, data and information, the  
480 laws of any Compacting State pertaining to confidentiality or  
481 nondisclosure shall not relieve any Compacting State Commis-  
482 sioner of the duty to disclose any relevant records, data or infor-  
483 mation to the Commission; provided, that disclosure to the  
484 Commission shall not be deemed to waive or otherwise affect any  
485 confidentiality requirement; and further provided, that, except as  
486 otherwise expressly provided in this Act, the Commission shall  
487 not be subject to the Compacting State's laws pertaining to confi-  
488 dentiality and nondisclosure with respect to records, data and  
489 information in its possession. Confidential information of the  
490 Commission shall remain confidential after such information is  
491 provided to any Commissioner.

492 3. The Commission shall monitor Compacting States for com-  
493 pliance with duly adopted Bylaws, Rules, including Uniform Stan-  
494 dards, and Operating Procedures. The Commission shall notify  
495 any non-complying Compacting State in writing of its noncompli-

496 ance with Commission Bylaws, Rules or Operating Procedures. If  
497 a non-complying Compacting State fails to remedy its noncompli-  
498 ance within the time specified in the notice of noncompliance, the  
499 Compacting State shall be deemed to be in default as set forth in  
500 Section 13.

501 4. The Commissioner of any State in which an Insurer is autho-  
502 rized to do business, or is conducting the business of insurance,  
503 shall continue to exercise his or her authority to oversee the  
504 market regulation of the activities of the Insurer in accordance  
505 with the provisions of the State's law. The Commissioner's  
506 enforcement of compliance with the Compact is governed by the  
507 following provisions:

508 a. With respect to the Commissioner's market regulation of a  
509 Product or Advertisement that is approved or certified to the Com-  
510 mission, the content of the Product or Advertisement shall not  
511 constitute a violation of the provisions, standards or requirements  
512 of the Compact except upon a final order of the Commission,  
513 issued at the request of a Commissioner after prior notice to the  
514 Insurer and an opportunity for hearing before the Commission.

515 b. Before a Commissioner may bring an action for violation of  
516 any provision, standard or requirement of the Compact relating to  
517 the content of an Advertisement not approved or certified to the  
518 Commission, the Commission, or an authorized Commission  
519 officer or employee, must authorize the action. However, autho-  
520 rization pursuant to this paragraph does not require notice to the  
521 Insurer, opportunity for hearing or disclosure of requests for  
522 authorization or records of the Commission's action on such  
523 requests.

#### 524 Section 8. Dispute Resolution

525 The Commission shall attempt, upon the request of a Member,  
526 to resolve any disputes or other issues that are subject to this  
527 Compact and which may arise between two or more Compacting  
528 States, or between Compacting States and Non-compacting States,  
529 and the Commission shall promulgate an Operating Procedure  
530 providing for resolution of such disputes.

#### 531 Section 9. Product Filing and Approval

532 1. Insurers and Third-Party Filers seeking to have a Product  
533 approved by the Commission shall file the Product with, and pay  
534 applicable filing fees to, the Commission. Nothing in this Act

535 shall be construed to restrict or otherwise prevent an insurer from  
536 filing its Product with the insurance department in any State  
537 wherein the insurer is licensed to conduct the business of insur-  
538 ance, and such filing shall be subject to the laws of the States  
539 where filed.

540 2. The Commission shall establish appropriate filing and review  
541 processes and procedures pursuant to Commission Rules and  
542 Operating Procedures. Notwithstanding any provision herein to  
543 the contrary, the Commission shall promulgate Rules to establish  
544 conditions and procedures under which the Commission will pro-  
545 vide public access to Product filing information. In establishing  
546 such Rules, the Commission shall consider the interests of the  
547 public in having access to such information, as well as protection  
548 of personal medical and financial information and trade secrets,  
549 that may be contained in a Product filing or supporting informa-  
550 tion.

551 3. Any Product approved by the Commission may be sold or  
552 otherwise issued in those Compacting States for which the Insurer  
553 is legally authorized to do business.

554 Section 10. Review of Commission Decisions Regarding Fil-  
555 ings

556 1. Not later than thirty (30) days after the Commission has  
557 given notice of a disapproved Product or Advertisement filed with  
558 the Commission, the Insurer or Third Party Filer whose filing was  
559 disapproved may appeal the determination to a review panel  
560 appointed by the Commission. The Commission shall promulgate  
561 Rules to establish procedures for appointing such review panels  
562 and provide for notice and hearing. An allegation that the Com-  
563 mission, in disapproving a Product or Advertisement filed with  
564 the Commission, acted arbitrarily, capriciously, or in a manner  
565 that is an abuse of discretion or otherwise not in accordance with  
566 the law, is subject to judicial review in accordance with Section 2,  
567 subsection 4.

568 2. The Commission shall have authority to monitor, review and  
569 reconsider Products and Advertisement subsequent to their filing  
570 or approval upon a finding that the product does not meet the rele-  
571 vant Uniform Standard. Where appropriate, the Commission may  
572 withdraw or modify its approval after proper notice and hearing,  
573 subject to the appeal process in subsection 1 above.

574 Section 11. Finance

575 1. The Commission shall pay or provide for the payment of the  
576 reasonable expenses of its establishment and organization. To  
577 fund the cost of its initial operations, the Commission may accept  
578 contributions and other forms of funding from the National Asso-  
579 ciation of Insurance Commissioners, Compacting States and other  
580 sources. Contributions and other forms of funding from other  
581 sources shall be of such a nature that the independence of the  
582 Commission concerning the performance of its duties shall not be  
583 compromised.

584 2. The Commission shall collect a filing fee from each Insurer  
585 and Third Party Filer filing a product with the Commission to  
586 cover the cost of the operations and activities of the Commission  
587 and its staff in a total amount sufficient to cover the Commission's  
588 annual budget.

589 3. The Commission's budget for a fiscal year shall not be  
590 approved until it has been subject to notice and comment as set  
591 forth in Section 6 of this Compact.

592 4. The Commission shall be exempt from all taxation in and by  
593 the Compacting States.

594 5. The Commission shall not pledge the credit of any Com-  
595 pacting State, except by and with the appropriate legal authority  
596 of that Compacting State.

597 6. The Commission shall keep complete and accurate accounts  
598 of all its internal receipts, including grants and donations, and dis-  
599 bursements of all funds under its control. The internal financial  
600 accounts of the Commission shall be subject to the accounting  
601 procedures established under its Bylaws. The financial accounts  
602 and reports including the system of internal controls and proce-  
603 dures of the Commission shall be audited annually by an indepen-  
604 dent certified public accountant. Upon the determination of the  
605 Commission, but no less frequently than every three (3) years, the  
606 review of the independent auditor shall include a management and  
607 performance audit of the Commission. The Commission shall  
608 make an Annual Report to the Governor and legislature of the  
609 Compacting States, which shall include a report of the indepen-  
610 dent audit. The Commission's internal accounts shall not be confi-  
611 dential and such materials may be shared with the Commissioner  
612 of any Compacting State upon request provided, however, that any



613 work papers related to any internal or independent audit and any  
614 information regarding the privacy of individuals and insurers' pro-  
615 prietary information, including trade secrets, shall remain confi-  
616 dential.

617 7. No Compacting State shall have any claim to or ownership  
618 of any property held by or vested in the Commission or to any  
619 Commission funds held pursuant to the provisions of this Com-  
620 pact.

621 Section 12. Compacting States, Effective Date and Amendment

622 1. Any State is eligible to become a Compacting State.

623 2. The Compact shall become effective and binding upon leg-  
624 islative enactment of the Compact into law by two Compacting  
625 States; provided, the Commission shall become effective for pur-  
626 poses of adopting Uniform Standards for, reviewing, and giving  
627 approval or disapproval of, Products filed with the Commission  
628 that satisfy applicable Uniform Standards only after twenty-six  
629 (26) States are Compacting States or, alternatively, by States rep-  
630 resenting greater than forty percent (40%) of the premium volume  
631 for life insurance, annuity, disability income and long-term care  
632 insurance products, based on records of the NAIC for the prior  
633 year. Thereafter, it shall become effective and binding as to any  
634 other Compacting State upon enactment of the Compact into law  
635 by that State.

636 3. Amendments to the Compact may be proposed by the Com-  
637 mission for enactment by the Compacting States. No amendment  
638 shall become effective and binding upon the Commission and the  
639 Compacting States unless and until all Compacting States enact  
640 the amendment into law.

641 Section 13. Withdrawal, Default and Termination

642 1. Withdrawal

643 a. Once effective, the Compact shall continue in force and  
644 remain binding upon each and every Compacting State; provided,  
645 that a Compacting State may withdraw from the Compact ("With-  
646 drawing State") by enacting a statute specifically repealing the  
647 statute which enacted the Compact into law.

648 b. The effective date of withdrawal is the effective date of the  
649 repealing statute. However, the withdrawal shall not apply to any  
650 product filings approved or self-certified, or any Advertisement of  
651 such products, on the date the repealing statute becomes effective,

652 except by mutual agreement of the Commission and the With-  
653 drawing State unless the approval is rescinded by the Withdrawing  
654 State as provided in Paragraph e of this subsection.

655 c. The Commissioner of the Withdrawing State shall immedi-  
656 ately notify the Management Committee in writing upon the intro-  
657 duction of legislation repealing this Compact in the Withdrawing  
658 State.

659 d. The Commission shall notify the other Compacting States of  
660 the introduction of such legislation within ten (10) days after its  
661 receipt of notice thereof.

662 e. The Withdrawing State is responsible for all obligations,  
663 duties and liabilities incurred through the effective date of with-  
664 drawal, including any obligations, the performance of which  
665 extend beyond the effective date of withdrawal, except to the  
666 extent those obligations may have been released or relinquished  
667 by mutual agreement of the Commission and the Withdrawing  
668 State. The Commission's approval of Products and Advertisement  
669 prior to the effective date of withdrawal shall continue to be effec-  
670 tive and be given full force and effect in the Withdrawing State,  
671 unless formally rescinded by the Withdrawing State in the same  
672 manner as provided by the laws of the Withdrawing State for the  
673 prospective disapproval of products or advertisement previously  
674 approved under state law.

675 f. Reinstatement following withdrawal of any Compacting State  
676 shall occur upon the effective date of the Withdrawing State reen-  
677 acting the Compact.

678 2. Default

679 a. If the Commission determines that any Compacting State has  
680 at any time defaulted ("Defaulting State") in the performance of  
681 any of its obligations or responsibilities under this Compact, the  
682 Bylaws or duly promulgated Rules or Operating Procedures, then,  
683 after notice and hearing as set forth in the Bylaws, all rights, privi-  
684 leges and benefits conferred by this Compact on the Defaulting  
685 State shall be suspended from the effective date of default as fixed  
686 by the Commission. The grounds for default include, but are not  
687 limited to, failure of a Compacting State to perform its obligations  
688 or responsibilities, and any other grounds designated in Commis-  
689 sion Rules. The Commission shall immediately notify the  
690 Defaulting State in writing of the Defaulting State's suspension

691 pending a cure of the default. The Commission shall stipulate the  
692 conditions and the time period within which the Defaulting State  
693 must cure its default. If the Defaulting State fails to cure the  
694 default within the time period specified by the Commission, the  
695 Defaulting State shall be terminated from the Compact and all  
696 rights, privileges and benefits conferred by this Compact shall be  
697 terminated from the effective date of termination.

698     b. Product approvals by the Commission or product self-certifi-  
699 cations, or any Advertisement in connection with such product,  
700 that are in force on the effective date of termination shall remain  
701 in force in the Defaulting State in the same manner as if the  
702 Defaulting State had withdrawn voluntarily pursuant to  
703 subsection 1 of this Section.

704     c. Reinstatement following termination of any Compacting  
705 State requires a reenactment of the Compact.

### 706     3. Dissolution of Compact

707     a. The Compact dissolves effective upon the date of the with-  
708 drawal or default of the Compacting State which reduces member-  
709 ship in the Compact to one Compacting State.

710     b. Upon the dissolution of this Compact, the Compact becomes  
711 null and void and shall be of no further force or effect, and the  
712 business and affairs of the Commission shall be wound up and any  
713 surplus funds shall be distributed in accordance with the Bylaws.

### 714     Section 14. Severability and Construction

715     1. The provisions of this Compact shall be severable; and if any  
716 phrase, clause, sentence or provision is deemed unenforceable, the  
717 remaining provisions of the Compact shall be enforceable.

718     2. The provisions of this Compact shall be liberally construed  
719 to effectuate its purposes.

### 720     Section 15. Binding Effect of Compact and Other Laws

#### 721     1. Other Laws

722     a. Nothing herein prevents the enforcement of any other law of  
723 a Compacting State, except as provided in Paragraph b of this sub-  
724 section.

725     b. For any Product approved or certified to the Commission, the  
726 Rules, Uniform Standards and any other requirements of the Com-  
727 mission shall constitute the exclusive provisions applicable to the  
728 content, approval and certification of such Products. For Adver-  
729 tisement that is subject to the Commission's authority, any Rule,

730 Uniform Standard or other requirement of the Commission which  
731 governs the content of the Advertisement shall constitute the  
732 exclusive provision that a Commissioner may apply to the content  
733 of the Advertisement. Notwithstanding the foregoing, no action  
734 taken by the Commission shall abrogate or restrict: (i) the access  
735 of any person to state courts; (ii) remedies available under state  
736 law related to breach of contract, tort, or other laws not specifi-  
737 cally directed to the content of the Product; (iii) state law relating  
738 to the construction of insurance contracts; or (iv) the authority of  
739 the attorney general of the state, including but not limited to main-  
740 taining any actions or proceedings, as authorized by law.

741 c. All insurance products filed with individual States shall be  
742 subject to the laws of those States.

743 2. Binding Effect of this Compact

744 a. All lawful actions of the Commission, including all Rules  
745 and Operating Procedures promulgated by the Commission, are  
746 binding upon the Compacting States.

747 b. All agreements between the Commission and the Com-  
748 pacting States are binding in accordance with their terms.

749 c. Upon the request of a party to a conflict over the meaning or  
750 interpretation of Commission actions, and upon a majority vote of  
751 the Compacting States, the Commission may issue advisory opin-  
752 ions regarding the meaning or interpretation in dispute.

753 In the event any provision of this Compact exceeds the consti-  
754 tutional limits imposed on the legislature of any Compacting  
755 State, the obligations, duties, powers or jurisdiction sought to be  
756 conferred by that provision upon the Commission shall be ineffec-  
757 tive as to that Compacting State, and those obligations, duties,  
758 powers or jurisdiction shall remain in the Compacting State and  
759 shall be exercised by the agency thereof to which those obliga-  
760 tions, duties, powers or jurisdiction are delegated by law in effect  
761 at the time this Compact becomes effective.

762 Section 16. The commissioner of insurance for the Common-  
763 wealth shall serve as the representative of the Commonwealth to  
the Commission.